



**THE ATTORNEY GENERAL  
OF TEXAS**

**CRAWFORD C. MARTIN  
ATTORNEY GENERAL**

**AUSTIN, TEXAS 78711**

June 2, 1967

Mrs. Bess Blackwell  
Executive Secretary  
State Board of Hairdressers  
& Cosmetologists  
Sam Houston Building  
Austin, Texas

Opinion No. M-81

Re: Whether the State Board has  
the authority to require an  
applicant for an original li-  
cense to select a name other  
than one already recorded with  
the Board.

Dear Mrs. Blackwell:

You have requested the opinion of this office regarding  
the above question. In this connection we quote from Section 10,  
Article 734b, Vernon's Penal Code:

"The Board may refuse to issue or to re-  
new or may suspend or revoke any license issued  
in accordance with the provisions of this Act  
for the following reasons:

". . . .

"(e) Advertising, practicing, or attempt-  
ing to practice under the name or trade name of  
another licensee under this Act;

". . . ." (Emphasis supplied.)

Under the above quoted statutory provision, it is the  
opinion of this office that the State Board of Hairdressers and  
Cosmetologists has the authority, in the proper exercise of its  
discretion, to refuse to issue a license to an applicant who has  
selected the same name as a business previously licensed by the  
Board and still in operation. Any such refusal to issue a li-  
cense must, of course, be dependent upon a Board hearing con-  
ducted in accordance with Sections 11(a) and 11(b), Article 734b,  
Vernon's Penal Code.

In connection with any possible Board hearing held in  
the future on the subject of trade names, you are advised that

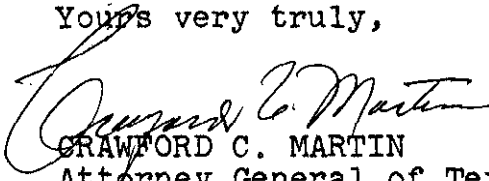
Mrs. Bess Blackwell, page 2 (M-81)

Section 2(h), Article 734b, Vernon's Penal Code, has no application to the determination of what constitutes "advertising, practicing, or attempting to practice under the name or trade name of another licensee under this Act." The said Section 2(h) is concerned solely with defining those businesses subject to licensing; the specific listing of names is made to insure that a business engaged in the practice or teaching of cosmetology or hairdressing may not escape licensing through the use of a subterfuge.

S U M M A R Y

After proper hearing, as provided in Article 734b, Vernon's Penal Code, the State Board of Hairdressers and Cosmetologists has the authority to refuse to issue a license for the operation of a business which has the same name as a business previously licensed by the Board and still in operation.

Yours very truly,

  
CRAWFORD C. MARTIN  
Attorney General of Texas

Prepared by Malcolm L. Quick  
Assistant Attorney General

APPROVED:  
OPINION COMMITTEE

Hawthorne Phillips, Chairman  
W. V. Geppert, Co-Chairman  
Paul Martin  
W. O. Shultz  
Milton Richardson  
John Duren

STAFF LEGAL ASSISTANT  
A. J. Carubbi, Jr.